



CITY OF
**PALO
ALTO**

**CITY OF PALO ALTO
CITY COUNCIL**

**Tuesday, June 17, 2025
Council Chambers & Hybrid
5:30 PM**

Agenda Item

4. Adopt a Resolution Declaring Surface Parking Lot T (APN: 120-15-100) Exempt Surplus Land and Approve an Exclusive Negotiation Agreement with Alta Housing for Development of 100% Affordable Housing on City-Owned Property Located at the Corner of Kipling Street and Lytton Avenue in Downtown Palo Alto; CEQA Status – Not a Project.



City Council Staff Report

From: City Manager

Report Type: CONSENT CALENDAR

Lead Department: Planning and Development Services

Meeting Date: June 17, 2025

Report #:2504-4487

TITLE

Adopt a Resolution Declaring Surface Parking Lot T (APN: 120-15-100) Exempt Surplus Land and Approve an Exclusive Negotiation Agreement with Alta Housing for Development of 100% Affordable Housing on City-Owned Property Located at the Corner of Kipling Street and Lytton Avenue in Downtown Palo Alto; CEQA Status – Not a Project.

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt a Resolution (Attachment A) declaring the City-owned property located at the corner of Kipling Street and Lytton Avenue ("Lot T") as Exempt Surplus Land pursuant to Government Code Section 54221(f)(1)(A) and 54221(f)(1)(B); and
2. Approve and authorize the City Manager or their designee to execute an Exclusive Negotiation Agreement (ENA) with Alta Housing (Attachment B) to develop 100% affordable housing on Lot T.

BACKGROUND

Implementation Program 1.4 of the City's 2023–2031 Housing Element identifies redevelopment of City-owned surface parking lots for 100% affordable housing projects, prioritizing opportunities to incorporate replacement public parking and housing serving households earning up to 80% of Area Median Income (AMI) or designated workforce housing for City and school district employees.

In 2022 and 2023, the City conducted a Request for Information (RFI) process identifying Lot T as a preferred site for implementation of Program 1.4. In 2024, the City Council adopted Priority ED&T 8, which directed staff to pursue refined proposals for Lot T. Following a Request for Refined Proposals issued in September 2024, the Council on January 21, 2025, directed staff to prepare an ENA with Alta Housing for Council action to advance predevelopment work.

ANALYSIS

Surplus Land Act Compliance

Before a local government agency may sell or enter into a long-term lease of land for development, the Surplus Land Act (California Government Code Sections 54220–54234) requires agencies to follow certain notice procedures to make the land available for the development of affordable housing. Under certain circumstances, an agency may declare the land "exempt surplus" in which case the notice procedures do not apply. Two such circumstances exist for Lot T.

First, and perhaps most obvious, under Government Code 54221(f)(1)(A), surplus land may be declared exempt if it will be transferred for the purpose of developing affordable housing. Under the proposed Exclusive Negotiating Agreement, Alta will design, and submit for the City's planning approval, a proposal to develop Lot with 100% affordable housing, which will be deed restricted to preserve affordability to extremely low, very low, and low-income households, for a term no shorter than 30 years. Therefore Lot T qualifies for an exemption on this basis.

Second, under Government Code 54221(f)(1)(B), surplus land may be declared exempt if it is smaller than one-half acre (21,780 square feet) in area, and is not adjacent to publicly-owned land used for open space or affordability housing purposes. According to City records, Lot T is approximately 19,236 square feet in area and the adjacent properties are privately owned and used for commercial purposes. Therefore, Lot T separately qualifies for an exemption on this basis.

These findings are included in the Resolution (Attachment A). City staff received technical assistance from HCD in preparing the Resolution, and once adopted, the Resolution will be transmitted to the California Department of Housing and Community Development (HCD) as required by Government Code Section 54222.3.

Exclusive Negotiation Agreement with Alta Housing

The ENA formalizes the City's partnership with Alta Housing and outlines the framework for negotiating a long-term ground lease, project financing terms, regulatory agreements, and other documents necessary to support project development. The ENA:

- Does not entitle or approve a specific development project;
- Requires good faith negotiations toward a Disposition and Development Agreement (DDA) for a project that satisfies the affordability requirements of the Surplus Land Act and other direction that may be provided by the Council during the term of the ENA;
- Sets a timeline and terms for predevelopment due diligence and community engagement;
- Establishes roles, responsibilities, and deliverables during the ENA term;

- Allows Alta Housing to request reimbursement of actual costs incurred, not to exceed \$200,000, if the City does not proceed with the Lot T project.

The ENA was prepared by the City Attorney's Office and negotiated with Alta Housing and reflects typical provisions used in similar public-private affordable housing projects.

FISCAL/RESOURCE IMPACT

Approval of the ENA and declaration of exempt surplus status do not have a fiscal impact as work associated with these efforts is already accounted for in department budgets. Should the City cancel the project, staff will return to Council at a future date to request the necessary appropriation from the Housing In Lieu Residential Fund to reimburse Alta Housing. Future agreements, including the DDA and potential funding commitments for the ultimate development of the parcel, will have fiscal implications and will be presented to Council for review and approval.

STAKEHOLDER ENGAGEMENT

The proposed ENA and exemption resolution were publicly noticed as part of the June 16, 2025 City Council agenda. Prior engagement activities included:

- Issuance of a Request for Refined Proposals in 2024;
- Council review of refined proposals and direction to staff to prepare the subject ENA in January 2025;
- Housing Element community meetings and discussions identifying Lot T as a City-owned site suitable for affordable housing.

Additional engagement is anticipated during the ENA term and future project review process.

ENVIRONMENTAL REVIEW

Approval of the ENA and exemption resolution is not a project subject to environmental review under the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378(b)(2). Any future development of Lot T will require CEQA review prior to entitlement.

ATTACHMENTS

Attachment A: Draft Resolution Declaring Lot T as Exempt Surplus Land

Attachment B: Exclusive Negotiation Agreement with Alta Housing

APPROVED BY:

Jonathan Lait, Planning and Development Services Director

Resolution No. _____

Resolution of the Council of the City of Palo Alto Declaring Property Known as Lot T (APN 120-15-100)
Exempt Surplus Land under the Surplus Land Act (Government Code 54220 et. seq)

RECITALS

The City of Palo Alto ("City") is the owner in fee simple of that certain real property approximately 19,236 square feet in size and situated at the corner of Lytton Avenue and Kipling Street in Palo Alto, CA ("Lot T Property"), APN 120-15-100.

The parcels adjacent to the Lot T Property are privately-owned and are not currently used as open space, or for low- or moderate-income housing purposes.

The Lot T property was acquired through City of Palo Alto Parking Assessment District Project 75-63, which proceedings were conducted through the Special Assessment Investigation, Limitation, and Majority Protest Act of 1931 and Sections 13.12.040 and 13.12.050 of Title 13 of the Palo Alto Municipal Code.

Since being acquired by the City, the Lot T property has been constructed and used as a surface parking lot with approximately 52 parking spaces.

Subdivision (g) of Section 13.12.050 of the Palo Alto Municipal Code provides that the Council may lease one or more parking spaces and facilities, when, in its opinion, the public interest and economy will be served thereby.

Cities across California are facing a severe housing shortage. The housing shortage is particularly acute in the San Francisco Bay Area region, where the demand for housing—specifically affordable housing—vastly exceeds the available supply.

The City's 2023-2031 Housing Element seeks to develop significant additional housing in the City's downtown area to meet its Regional Housing Needs Allocation targets.

Program 1.4 of the City's 2023-2031 Housing Element contemplates increasing the City's affordable housing stock through redevelopment of City-owned surface parking lots with a stated objective of providing replacement public parking and 100% affordable housing units serving households earning up to 80% of the Area Median Income or for workforce housing for City employees and Palo Alto Unified School District employees.

In furtherance of Housing Element Program 1.4, the City has identified the Lot T Property for redevelopment with affordable housing.

In January 2023, City staff issued a Request for Information seeking development concepts for affordable housing and public parking structures on one or more of the City's twelve surface parking lots in the downtown and received submittals from two firms, Alta Housing and MidPen Housing.

In December 2023, the Council directed City staff to solicit refined proposals that focused on redeveloping the Lot T Property with 100% affordable housing.

In September 2024, City staff issued a Request for Refined Proposals for an affordable housing development on the Lot T Property from Alta Housing and MidPen Housing.

On December 2, 2024, the Council approved a contract for design, environmental review, and construction administration services for a new downtown parking garage on a City-owned surface parking lot situated at the corner of Hamilton Avenue and Waverley Street (Lot D Garage Project). The Lot D Garage Project is intended to provide the replacement public parking contemplated by, and in furtherance of, Housing Element Program 1.4.

On January 21, 2025 the Council selected Alta Housing as its preferred development partner and provided preliminary direction on key project components, including the provision of parking, maximum building height, and the number, composition, and affordability levels of the housing units.

On April 14, 2025, the Council reviewed design options for the Lot D Garage Project and directed City staff to proceed with design on a six-level structure that would provide approximately 274 parking spaces.

On June 16, 2025, the City and Alta Housing entered into an exclusive negotiating agreement to provide Alta Housing the exclusive right to, for a limited term, to design and submit a planning application for an affordable housing development on the Lot T that meets the requirements Housing Element Program 1.4 and the development and affordability requirements of Government Code 54221(f)(1)(A).

The Surplus Land Act, Government Code sections 54220 et seq., imposes certain procedural requirements when a local agency “disposes” of “surplus land,” as those terms are defined in Government Code section 54221, to promote affordable housing development on unused or underutilized public land throughout the State to respond to the affordable housing crisis.

The Surplus Land Act requires public agencies, including charter cities, to follow certain procedures to dispose of “surplus land” or declare land to be “exempt surplus land” at a public hearing prior to disposition.

NOW, THEREFORE, the Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. The recitals above are true and correct and are incorporated by this reference as findings of fact by the Council.

SECTION 2. Consistent with subdivision (g) of Section 13.12.050 of the Palo Alto Municipal code, the Council finds that the public interest and economy will be served by entering into a long-term ground lease of the Lot T Property. Such lease will facilitate the development of the Lot T property with affordable housing and provide below market rate housing opportunities for individuals and families in a desirable area of the city, consistent with Program 1.4 of the City’s 2023-2031 Housing Element. The Council further finds that new residential development in downtown will increase the number of potential employees and customers to work in and patronize the shops, services, and restaurants. The Council further finds that the construction of the Lot D Garage Project will adequately replace the public parking currently provided on the Lot T property.

SECTION 3. The Council finds and declares the Lot T property is exempt surplus land as defined by Government Code section 54221(f)(1)(B) in that the Lot T property is less than one-half acre in area, and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes.

SECTION 3. Alternatively, the Council finds and declares the Lot T property is also exempt surplus land as defined by Government Code section 54221(f)(1)(A) because the Lot T property will be developed to provide 100% affordable housing; and the housing units will be deed-restricted to remain continually affordable for the time required, and at the affordability levels, required by Government Code section 37364.

SECTION 4. The Council finds and declares that its determination that the Lot T property is exempt surplus land is not a “project” as defined by the California Environmental Quality Act (CEQA) because this determination does not authorize any disposition or entitle development of the property and is therefore an administrative activity that will not result in direct or indirect physical changes in the environment. CEQA Guidelines Section 15378(b)(4).

INTRODUCED AND PASSED: June ____, 2025

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

Chief Assistant City Attorney

**EXCLUSIVE NEGOTIATION AGREEMENT FOR THE
DEVELOPMENT OF AFFORDABLE HOUSING ON LOT T
PROPERTY BY AND BETWEEN THE CITY OF PALO ALTO
AND ALTA HOUSING CORPORATION**

This EXCLUSIVE NEGOTIATION AGREEMENT (ENA) is entered into by and between the City OF PALO ALTO, a chartered municipal corporation (City) and ALTA HOUSING, a California nonprofit public benefit corporation (Developer) under the terms and conditions set forth below. The City and Developer shall collectively be referred to herein as the “Parties” and individually as “Party.”

RECITALS

Cities across California are facing a severe housing shortage. The housing shortage is particularly acute in the San Francisco Bay Area region, where the demand for housing—specifically affordable housing—vastly exceeds the available supply.

The City’s 2023-2031 Housing Element seeks to develop significant additional housing in the City’s downtown area to meet its Regional Housing Needs Allocation targets.

Program 1.4 of the City’s 2023-2031 Housing Element contemplates increasing the City’s affordable housing stock through redevelopment of City-owned surface parking lots with a stated objective of providing replacement public parking and 100% affordable housing units serving households earning up to 80% of the Area Median Income or for workforce housing for City employees and Palo Alto Unified School District employees.

The City is the fee title owner of a surface parking lot, APN 120-15-100, situated at the corner of Lytton Avenue and Kipling Street in Palo Alto, CA (Lot T Property).

In furtherance of Housing Element Program 1.4, the City has identified the Lot T Property for redevelopment with affordable housing.

In January 2023, the City issued a Request for Information seeking development concepts for affordable housing and public parking structures on one or more of the City’s twelve surface parking lots in the downtown and received submittals from two firms, Alta Housing and MidPen Housing.

In December 2023, the City directed City staff to solicit refined proposals that focused on redeveloping the Lot T Property with 100% affordable housing.

In September 2024, the City issued a Request for Refined Proposals for an affordable housing development (Project) on the Lot T Property from Alta Housing and MidPen Housing.

On December 2, 2024, the City Council approved a contract for design, environmental review, and construction administration services for a new downtown parking garage on a City-owned surface parking lot situated at the corner of Hamilton Avenue and Waverley Street (Lot D Garage). The Lot D Garage is intended to provide replacement public parking in furtherance of Housing Element Program 1.4.

On January 21, 2025 the Palo Alto City Council directed City staff to enter into an exclusive negotiating agreement with Alta Housing and provided preliminary direction on key project components, namely parking, building height, and the number and composition of housing units.

The City and Developer wish to negotiate and reach agreement on the terms and conditions for the ground lease of the Lot T Property and a project to design, construct, operate, and maintain an affordable housing development, all in furtherance of Housing Element Program 1.4.

The purpose of this ENA is to establish the procedures and desired outcomes for the Parties' negotiation of a ground lease, project agreement, project financing, regulatory agreements, and any ancillary agreements necessary to design, construct, and operate the affordable housing development on the Lot T Property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer mutually agree as follows:

ARTICLE 1. Negotiations

A. Agreement Term.

This agreement shall commence on the date on which the agreement is executed by the Parties ("Effective Date"). If the agreement is executed in counterparts, the Effective Date shall be the later of the dates indicated on either counterpart. Unless earlier terminated in accordance with Article 3, Section D, the Parties shall exclusively negotiate with one another in good faith regarding the items set forth in Article 2 for a period of One Year ("Term"), commencing on the Effective Date, or as such Term may be extended pursuant to Article 1, Section D below. The Term of this agreement shall be tolled during any period of time in which either Party's is enjoined from performing its obligations by order of a court with competent jurisdiction.

B. Good Faith Negotiations

During the Term, the Parties shall negotiate a proposed Disposition and Development Agreement ("DDA") for the Project. The DDA shall incorporate provisions from the Term Sheet attached hereto and incorporated herein as "Exhibit A" (the "Term Sheet"), which will be subject to modification, the addition of greater details regarding the proposed Project, and such other matters as the Parties shall mutually agree, as set forth in Article 2 below. The Term Sheet is not intended to be binding on either Party, but rather to a starting point for the negotiations anticipated herein.

The parties shall meet and confer with one another as is reasonably necessary to discharge their respective obligations under this ENA.

C. Scope of Exclusivity

During the Term, the City shall not: (1) solicit, receive, entertain, negotiate with, or consider any offers or solicitations from any person or entity other than from Developer, to acquire or lease all or any portion of the Lot T Property; (2) propose or process any legislative or administrative actions,

authorizations, or entitlements for any change of use of the Lot T Property from its present use other than pursuant to this ENA; (3) conduct any public hearing to consider approve, or conditionally approve any development of the Lot T Property other than pursuant to this ENA.

D. Extension of ENA Term by City

If this ENA has not been terminated in accordance with Article 3 Section D and Developer, as determined by the Palo Alto City Manager ("City Manager") in the exercise of his/her reasonable and good faith discretion, is in substantial compliance with this ENA, and the Parties' negotiation of the items set forth in Article 2 have not been completed, the City Manager may approve an extension for up to twelve (12) months.

E. Extension of ENA Term by Mutual Agreement of the Parties

If this ENA has not been terminated in accordance with Article 3 Section D and completion of the Negotiation Tasks set forth in Article 2 is delayed, through no action or omission of Developer, then Developer and the City Manager may mutually agree to an extension for a period no longer than twelve (12) months. The Parties may agree to an extend this ENA under this Section separately from, or in addition to, an extension granted by the City under Article 1 Section D above.

ARTICLE 2. Negotiation Tasks

A. Drafting of Disposition and Development Agreement (DDA)

The Parties will prepare a mutually acceptable DDA Term Sheet addressing and expanding upon each of the issues identified in Term Sheet, including but not limited to the description, uses, configuration, design, and timeline of a mutually acceptable Project.

The Parties shall agree upon a definition and timeline of key pre-development and development milestones (e.g., design development drawings, entitlement submissions, etc.) that will form the basis of Project progress in the DDA.

The Parties shall prepare a mutually acceptable DDA setting forth the terms and conditions upon which Develop will lease the Lot T Property from the City consistent with the agreed upon DDA Term Sheet.

The Parties shall prepare mutually acceptable terms for property management and resident/supportive services to be provided in connection with the Project.

B. Community Outreach and Engagement Plan

City and Developer will confer and jointly prepare a plan for community outreach and engagement regarding the proposed Project.

C. Developer's Obligations in Connection with Negotiation Tasks

Developer shall, at its sole cost and expense consistent with the proposed Project and the Term Sheet:

1. Retain such architects, engineers, market analysts, financial Developers, attorneys and environmental consultant as are necessary to assist Developer in the discharge of its responsibilities under this ENA.
2. During the Term, the Developer will prepare and submit the following to the City for the DDA:

- a. A proposed draft DDA Term Sheet, which builds from the Term Sheet at Exhibit A;
- b. A market feasibility study for all aspects of the Project;
- c. A proposed draft DDA based upon and consistent with the DDA Term Sheet;
- d. A detailed pro forma showing the financial feasibility for all aspects of the Project consistent with the proposed draft DDA; and
- e. Such additional analysis, information, documents and reports for the City's review, processing, and approval as are requested by the City to enable the City to comply with its obligations.

C. City's Obligations in Connection with Negotiation Tasks

1. Comply with the City's lead agency responsibilities, as applicable, under the California Environmental Quality Act ("CEQA"), subject to reimbursement for any necessary environmental review documents.
2. The City shall retain such architects, engineers, market analysts, financial Developers, attorneys and environmental and planning Developers as are necessary to assist the City in the discharge of its obligations under this ENA.

D. Due diligence

1. Due Diligence. Developer shall conduct, at its sole cost and expense, all due diligence investigation in connection with its potential lease of the Lot T Property and its suitability for development of the Project as Developer deems appropriate and necessary in its absolute and sole discretion.
2. Within thirty (30) business days after the Effective Date, the City will provide copies of all leases, agreements, covenants, tests, surveys, maps, plans, records, studies, reports, operating statements, rent rolls, property records, documents, permits and entitlements and materials, soils and hazardous materials reports and other relevant documents pertaining to the Lot T Property, that are in City's possession or reasonable control. City will reasonably cooperate with Developer as required in connection with all of Developer's due diligence investigations, at Developer's sole cost and expense, and will timely provide Developer with all additional documents and other materials in City's possession or control reasonably requested by Developer.
3. During the term of this ENA, Developer and its representatives may, during normal business hours and upon not less than one (1) business day prior notice (which may be oral notice) to City, enter upon the Lot T Property to conduct such inspections, investigations and tests of the Lot T Property (including, but not limited to geologic, soil and water testing) as Developer deems appropriate in its sole and absolute discretion. Prior to entering upon the the Lot T Property to conduct any invasive or potentially destructive testing, including without limitation a Phase II environmental survey or any testing or investigation that might disrupt or materially interfere with City's normal use of the Lot T Property or cause physical disturbance or damage to the

Lot T Property or any buildings or infrastructure thereon, Developer shall obtain City's written approval of a written scope of work and protocol prepared by Developer for conducting such invasive or potentially destructive testing. Developer shall conduct its invasive or potentially destructive testing only in accordance with such approved protocol. Upon the conclusion of Developer's inspections, investigations and tests, Developer shall promptly restore the Lot T Property to substantially the same condition as it was in prior to such inspections, investigations and tests at Developer's sole cost and expense. Developer shall cause Developer's inspections, investigations and tests to be conducted (i) in a safe and professional manner, (ii) so as not to create any dangerous or hazardous condition on or the Lot T Property, and (iii) in compliance with all applicable laws and only after obtaining all permits required to be obtained with respect to such activities. Developer shall have no obligation to repair any problems or defects disclosed by Developer's inspections, investigations and tests. Upon City's request thereof, Developer shall provide copies of all tests and reports generated in connection with Developer's investigation activities on the Lot T Property, at no cost to City. Developer shall indemnify, hold harmless, and defend City, its officers, employees and agents from and against any and all claims, demands, suits, liabilities, losses, damages and payments, including reasonable attorney fees and court costs, claimed or made against City, its officers, employees or agents resulting from or arising out of Developer's inspection activities on the Lot T Property, except to the extent caused by City's gross negligence or willful misconduct. Developer and Developer's contractors performing any work or conducting any investigations on the Lot T Property, if any, shall obtain and maintain in full force and effect during the Term, insurance consistent with the requirements in Attachment One to this ENA which is incorporated herein by this reference.

E. Planning Approvals

The Parties acknowledges that the proposed Project will require the City's approval of certain land use or other discretionary approvals and/or other entitlements and permits (collectively, "Entitlements").

Developer will be required to obtain any and all discretionary approvals and Entitlements for the proposed Project.

Developer shall be responsible for submitting all planning applications and required information required for Entitlements, including, but not limited to site plans, preliminary designs, building plans and specifications for the proposed Project.

The Parties acknowledge and agree that: (1) nothing in this ENA shall obligate the City to approve any Entitlement, approve the DDA, or sell or convey all or any part of the Property to Developer; (2) nothing in this ENA shall obligate Developer to enter into the DDA, acquire, or lease all or any part of the Property from the City, or develop all or any part of the Project.

ARTICLE 3. General Terms and Conditions

A. Notices

Formal notices, demands and communications between the City and Developer shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, to the office of the Parties shown as follows, or such other address as the Parties may designate in writing from time to time:

To City:

City of Palo Alto

250 Hamilton Avenue

Palo Alto, CA 94301

Attn: Ed Shikada, City Manager

With a Copy to:

Jonathan Lait, Director of Planning and Development Services

To Developer:

Alta Housing

3460 West Bayshore Road, Suite 104

Palo Alto, CA 94303

Attn: Randy Tsuda, President and CEO

Such formal notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused. For purposes of obligations to be performed by the City or of calculation of noticing under this Agreement, a business day on which the City is closed will not constitute a business day under this Agreement.

B. Limited Right of Entry to Property

During the Term of this Agreement, Developer shall have the right to enter upon the Property for purposes of fulfilling the terms, conditions, and obligations of this Agreement, including but not limited to Developer's due diligence tasks described in Article 2.

C. Defaults and Remedies

1. Default. If a Party defaults with regard to any of the provisions of this Agreement, then the non-defaulting Party shall give formal notice of a default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If a default remains uncured thirty (30) calendar days after receipt by the defaulting Party of such formal notice, the non-defaulting Party may immediately exercise the remedies set forth in Paragraph 2, below. If such default cannot reasonably be satisfactorily cured in such thirty-day (30-day) period, then,

provided Developer has and continues to diligently pursue the cure, Developer shall have up to such additional time as is reasonably necessary to cure, but in no event more than ninety (90) days to cure, satisfactorily, the failure or material breach, as long as Developer has initiated the cure of the same within such thirty-day (30-day) period and thereafter diligently prosecutes such cure to completion.

2. Remedies. Neither Party would have agreed to any part of this ENA if it were to be liable to the other Party for any amount of monetary damages. Accordingly, except for a default or breach of Developer with respect to Developer's indemnification, defense and hold harmless obligations set forth in this ENA or any amendment thereto, for which the City shall have all remedies available at law or in equity, the non-defaulting Party's sole and exclusive remedy in the event of an uncured default by the City or Developer shall be to terminate this Agreement or seek specific performance of this ENA, as applicable. Following such termination, no Party shall have any further duties, obligations, rights, or liabilities under this Agreement, except that Developer's indemnification, defense and hold harmless obligations set forth in this Agreement shall survive such termination and be enforceable against Developer. The prevailing Party in any action brought pursuant to this subsection shall also be entitled to an award of actually incurred and reasonable attorney's fees and costs.
3. No Liability. Except as expressly provided in Paragraphs 1 and 2, above, no Party shall have any liability to any other Party for damages or otherwise for any default or breach, nor shall any Party have any other claims with respect to performance under this Agreement. Each Party specifically waives and releases any such rights or claims it may otherwise have at law or in equity.

D. Termination

1. Failure of Good Faith Negotiations. Either Party may terminate this ENA at any time by formal notice given in accordance with Section A above to the other Party in the event that the terminating Party is in compliance with its obligations under the ENA and the Parties, after good faith negotiations in accordance with this ENA, have been unable to agree on a mutually acceptable Project and proposed DDA for processing by the City.
2. Termination after City Council Consideration. In the event this ENA is not otherwise terminated pursuant to the provisions of this Section D, this ENA shall automatically be terminated at the end of the Term, unless extended as otherwise provided herein, whether or not the parties were able to successfully negotiate a proposed DDA for the Project. This ENA shall automatically terminate after the City Council's consideration and final actions regarding the proposed DDA and the City's Discretionary Actions, in which case this ENA shall be superseded by the City Council's final actions regarding the DDA and the City's Discretionary Actions, whether approved or denied by the City Council.
3. Developer's Breach. In the event Developer materially breaches any of its obligations under this ENA, then, provided the City is not in material breach of its obligations, the City Manager may terminate this ENA provided the City has given Developer formal notice of the failure or material breach and Developer has failed to cure such failure or material breach in the allowable period.

4. Termination as a Result of Litigation. If the Parties mutually determine, in their reasonable discretion, that City's performance of its obligations under this ENA will be made impossible or impracticable as a result of litigation initiated by a third party then either or both Parties may terminate this Agreement upon 30 days' written notice. Such termination will be effective on the date stated in the notice. Notwithstanding any provision in this ENA to the contrary, Developer shall be entitled to reimbursement of its actual costs to the date of such termination incurred in connection with its performance of its obligations under this ENA, which reimbursement shall not exceed Two Hundred Thousand Dollars (\$200,000.00). As used in this paragraph, the phrase actual costs shall mean costs, including Developer staff time, and expenses incurred and paid by Developer to third party architects, consultants, and engineers hired by Developer for the performance of Negotiation Tasks from the effective date of this ENA through the effective date of termination. Developer shall request reimbursement in writing and provide an accounting of actual costs, along with any other supporting documentation reasonably requested by City. City shall use reasonable efforts to provide reimbursement in a prompt manner, not to exceed ninety (90) days from the date of receipt of the reimbursement request and supporting documentation. All of Developer's work product, including but not limited to designs, drawings, analyses, and applications for funding assistance, shall become the sole property of City, and Developer agrees to execute all necessary documents to assign all rights, title, and interest in such work product to City.

E. Assignment

Developer understands the City is entering into this Agreement based on the experience and qualifications of Developer and of the key individuals representing or employed by Developer as of the date of this Agreement. Therefore, Developer will not assign, sell, or otherwise transfer any or all of its rights under this Agreement, or interest herein, without the prior written approval of the City, which approval may be withheld in the City's sole and absolute discretion. Further, no voluntary or involuntary successor in interest of Developer will acquire any rights or powers under this Agreement except as expressly set forth herein. For the reasons cited herein, Developer represents and agrees for itself and any successor in interest that prior to the expiration of the Term, and without the prior written approval of the City (which approval may be withheld in the City's sole and absolute discretion), there will be no significant change in the management or control of Developer. Developer will promptly notify the City of all changes whatsoever in the identity of the parties in control of or exercising the management of Developer, or the degree of control or management, of which it or any of its officers have been notified or otherwise have knowledge or information. This Agreement may be terminated by the City if there is any significant change (voluntary or involuntary) in membership, management or control, of Developer. For purposes of this paragraph, a significant change will mean any change in the identity of the CEO, President, or similar person or persons having ultimate control over the day to day management of Developer, or the appointment of a receiver or trustee to operate or exercise direct or indirect control over Developer). Periodic, routine changes in membership that cumulatively affect less than 50% of the membership of the Developer's board of directors will not be considered a "significant change".

F. No Third-Party Beneficiaries.

This Agreement is made and entered into solely for the benefit of the City and Developer and no other person shall have any right or cause of action under or by reason of this Agreement.

G. Governing law; venue.

This Agreement and the legal relations between the Parties will be governed by and enforced in accordance with the Palo Alto Municipal Code and the laws of the State of California without reference to the rules governing the conflict of laws. This Agreement is made and entered into in the County of Santa Clara, California, and any legal actions or proceedings arising from or related to this Agreement will be brought in the Superior Court of California, County of Santa Clara.

H. Time is of Essence

Time is of the essence of every portion of this Agreement in which time is a material part.

I. Headings/Captions

The headings and captions of the various sections and paragraphs of this Agreement have been inserted only for the purpose of convenience and are not a part of this Agreement and will not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Agreement.

J. Severability

Every provision of this Agreement is intended to be severable. If any provision of this Agreement or the application of any provision hereof to any Party or circumstance is declared to be illegal, invalid or unenforceable for any reason whatsoever by statute or a court of competent jurisdiction, such invalidity will not affect the other terms and provisions hereof or the application of the provision in question to any other Party or circumstance, all of which will continue in full force and effect.

K. Waivers/Amendments

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the Parties. Except as otherwise expressly provided in this Agreement, any failure or delay by any Party in asserting any of its rights or remedies as to any default will not operate as a waiver of said default or of any rights or remedies in connection therewith or of any subsequent default or any rights or remedies in connection therewith, or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

L. Independent Contractor

Developer acknowledges and agrees that Developer and any agent or employee of Developer will act as and shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Developer performs the Services requested by City under this Agreement. Developer and any agent or employee of Developer will not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Developer will be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, workers' compensation, unemployment compensation, insurance, and other similar responsibilities related to Developer's performance of the Services, or any agent or employee of Developer providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Developer or any agent or employee of Developer. Any terms in this Agreement referring to direction from City shall be construed as providing

for direction as to policy and the result of Developer's provision of the Services only, and not as to the means by which such a result is obtained.

M. Conflicts of Interest

In executing this Agreement, Developer covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

Developer further covenants that, in the performance of this Agreement, it will not employ subcontractors or other persons or parties having such an interest. Developer certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of City; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California, as amended from time to time. Developer agrees to notify City if any conflict arises.

If the Developer meets the definition of a "Consultant" as defined by the Regulations of the Fair Political Practices Commission, Developer will file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act of 1974, as amended from time to time.

N. Nondiscrimination; Compliance with the Americans with Disabilities Act

As set forth in Palo Alto Municipal Code Section 2.30.510, as amended from time to time, Developer certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person due to that person's race, skin color, gender, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, pregnancy, genetic information or condition, housing status, marital status, familial status, weight or height of such person. Developer acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

Developer understands and agrees that pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor or subcontractor, are required to be accessible to the disabled public. Developer will provide the Services specified in this Agreement in a manner that complies with the ADA and any other applicable federal, state and local disability rights laws and regulations, as amended from time to time. Developer will not discriminate against persons with disabilities in the provision of services, benefits or activities provided under this Agreement.

O. Environmentally Preferred Purchasing and Zero Waste Requirements

Developer shall comply with the City's Environmentally Preferred Purchasing policies which are available at City's Purchasing Department, hereby incorporated by reference and as amended from time to time. Developer shall comply with waste reduction, reuse, recycling and disposal requirements of City's Zero Waste Program. Zero Waste best practices include, first, minimizing and reducing waste; second, reusing waste; and, third, recycling or composting waste. In particular, Developer shall comply with the following Zero Waste requirements:

1. All printed materials provided by Developer to City generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public

education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by City's Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable-based inks.

2. Goods purchased by Developer on behalf of City shall be purchased in accordance with City's Environmental Purchasing Policy including but not limited to Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Department's office.
3. Reusable/returnable pallets shall be taken back by Developer, at no additional cost to City, for reuse or recycling. Developer shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

P. Counterparts.

This Agreement may be executed in counterparts, each of which when so executed will be deemed an original, and all of which, when taken together, will constitute but one and the same instrument.

Q. Entire Agreement.

This Agreement represents the entire agreement of the Parties hereto and integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements, oral or written, between the Parties with respect to acquisition and development of the Property or the proposed Project.

For Alta Housing:

Name:

Title:

Date:_____

For City of Palo Alto:

Ed Shikada

City Manager

Date:_____

Approved as to form

Caio Arellano

Chief Assistant City Attorney

**City of Palo Alto - Lot T Affordable Housing
Scenario A - 54 Units Updated 6/4/2025**

UNIT MIX							
Unit Size	No. Units	% AMI	RRH Units	Family PBV	Base Rent	Subsidy	Income
1 BR	10	30%	10		114,960		114,960
2 BR	8	30%	2	6	109,248	135,936	245,184
3 BR	9	30%	2	7	140,616	216,216	356,832
3 BR	3	50%		3	81,396	58,140	139,536
1 BR	13	60%			311,220		311,220
2 BR	6	60%			171,504		171,504
3 BR	4	60%			131,520		131,520
2 BR	1	Mgr Unit			0		
TOTAL	54	44.2%	14	16	1,060,464	410,292	1,470,756

PERMANENT SOURCES					
	Amount	Per Unit	Interest	Term-Yrs	DCR
Permanent Loan	7,373,950	136,555	7.14%	35	1.15
CA HCD MHP	13,500,000	250,000	3%	55	
City of Palo Alto	4,140,000	76,667	3%	55	
Gap (County, Regional, FHLB)	2,034,314	37,672			
Equity from LIHTC (Federal & State)	30,802,206	570,411			
Total Sources	57,850,470	1,071,305			

CONSTRUCTION SOURCES				
	Amount	Per Unit	Interest	Term-Mos
Tax Exempt Construction Loan	29,090,000	538,704	7.16%	28
Taxable Construction Loan	18,921,454	350,397	7.26%	28
City of Palo Alto	4,140,000	76,667	3%	28
Costs Deferred until Perm Closing	2,618,795	48,496		
Equity from LIHTC	3,080,222	57,041		
Total Sources	57,850,470	1,071,305		

USES		
	Amount	Per Unit
Hard Costs	41,345,415	765,656
Design & Engineering	2,139,801	39,626
Development Impact & Permit Fees	986,205	18,263
Insurance During Construction	1,364,399	25,267
Developer Fee	2,500,000	46,296
Other Soft Costs	2,134,717	39,532
Financing Costs	7,379,932	136,665
Total Development Cost	57,850,469	1,071,305

CASH FLOW ANALYSIS								
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
Gross Potential Income								
Gross TCAC Rent	1,060,464	1,086,976	1,114,150	1,142,004	1,170,554	1,199,818	1,229,813	1,260,558
Section 8 Incremental Income	410,292	420,549	431,063	441,840	452,886	464,208	475,813	487,708
Miscellaneous Income	6,750	6,919	7,092	7,269	7,451	7,637	7,828	8,024
Less Vacancy/Loss - TCAC Rents	(53,023)	(54,349)	(55,707)	(57,100)	(58,528)	(59,991)	(61,491)	(63,028)
Less Vacancy/Loss - Sec 8 Incr	(20,515)	(21,027)	(21,553)	(22,092)	(22,644)	(23,210)	(23,791)	(24,385)
Effective Gross Income	1,403,968	1,439,067	1,475,044	1,511,920	1,549,718	1,588,461	1,628,173	1,668,877
Less Operating Expenses	(648,000)	(670,680)	(694,154)	(718,449)	(743,595)	(769,621)	(796,557)	(824,437)
Less Replacement Reserve	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)
Less HCD Annual Fee 0.42%	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)
Less City Annual Fee 125	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)
Net Operating Income	660,118	672,537	685,040	697,621	710,273	722,990	735,765	748,590
Less Debt Service	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)
Less Issuer Fee 4,000	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)
Net Cash Flow, First Cut	82,102	94,522	107,024	119,605	132,257	144,975	157,749	170,574
Debt Coverage Ratio	1.15	1.17	1.19	1.22	1.24	1.26	1.28	1.30
Less Ptrship Mgmt Fee - LP 7,500	(7,500)	(7,725)	(7,957)	(8,195)	(8,441)	(8,695)	(8,955)	(9,224)
Less Ptrship Mgmt Fee - GP 19,500	(19,500)	(20,085)	(20,688)	(21,308)	(21,947)	(22,606)	(23,284)	(23,983)
Net Cash Flow, 2nd Cut	55,102	66,712	78,380	90,102	101,869	113,674	125,510	137,368
Deferred Fee/Incentive Mgmt Fee 33%	(18,349)	(22,215)	(26,101)	(30,004)	(33,922)	(37,854)	(41,795)	(45,743)
Cash Distribution								
CA HCD 13,500,000 69.1%	(25,400)	(30,751)	(36,130)	(41,533)	(46,957)	(52,399)	(57,855)	(63,321)
Gap Source 2,034,314 10.4%	(3,828)	(4,634)	(5,444)	(6,259)	(7,076)	(7,896)	(8,718)	(9,542)
City 4,000,000 20.5%	(7,526)	(9,111)	(10,705)	(12,306)	(13,913)	(15,526)	(17,142)	(18,762)
19,534,314 100.0%								
Remaining Cash Flow	0	0	(0)	(0)	0	(0)	0	0

	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Gross Potential Income							
Gross TCAC Rent	1,292,072	1,324,374	1,357,484	1,391,421	1,426,206	1,461,861	1,498,408
Section 8 Incremental Income	499,901	512,398	525,208	538,339	551,797	565,592	579,732
Miscellaneous Income	8,224	8,430	8,641	8,857	9,078	9,305	9,538
Less Vacancy/Loss - TCAC Rents	(64,604)	(66,219)	(67,874)	(69,571)	(71,310)	(73,093)	(74,920)
Less Vacancy/Loss - Sec 8 Incr	(24,995)	(25,620)	(26,260)	(26,917)	(27,590)	(28,280)	(28,987)
Effective Gross Income	1,710,599	1,753,364	1,797,198	1,842,128	1,888,181	1,935,386	1,983,770
Less Operating Expenses	(853,292)	(883,157)	(914,068)	(946,060)	(979,172)	(1,013,444)	(1,048,914)
Less Replacement Reserve	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)	(27,000)
Less HCD Annual Fee 0.42%	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)	(56,700)
Less City Annual Fee 125	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)	(12,150)
Net Operating Income	761,457	774,356	787,280	800,218	813,159	826,092	839,006
Less Debt Service	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)	(574,016)
Less Issuer Fee 4,000	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)
Net Cash Flow, First Cut	183,441	196,341	209,264	222,202	235,143	248,076	260,990
Debt Coverage Ratio	1.33	1.35	1.37	1.39	1.42	1.44	1.46
Less Ptrship Mgmt Fee - LP 7,500	(9,501)	(9,786)	(10,079)	(10,382)	(10,693)	(11,014)	(11,344)
Less Ptrship Mgmt Fee - GP 19,500	(24,702)	(25,443)	(26,206)	(26,993)	(27,802)	(28,636)	(29,495)
Net Cash Flow, 2nd Cut	149,238	161,112	172,978	184,827	196,647	208,426	220,151
Deferred Fee/Incentive Mgmt Fee 33%	(49,696)	(53,650)	(57,602)	(61,548)	(65,484)	(69,406)	(73,310)
Cash Distribution							
CA HCD 13,500,000 69.1%	(68,792)	(74,266)	(79,736)	(85,198)	(90,646)	(96,076)	(101,480)
Gap Source 2,034,314 10.4%	(10,366)	(11,191)	(12,015)	(12,838)	(13,659)	(14,478)	(15,292)
City 4,000,000 20.5%	(20,383)	(22,005)	(23,625)	(25,244)	(26,858)	(28,467)	(30,068)
19,534,314 100.0%							
Remaining Cash Flow	(0)	(0)	(0)	(0)	0	0	(0)